

# **EXHIBIT 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

AL AND PO CORPORATION, )  
individually and on behalf of all others )  
similarly situated, )  
  ) Case No. 14-cv-1243  
Plaintiff, )  
v. ) Hon. Thomas M. Durkin  
  )  
QUALITY MEDICAL PRODUCTS, LLC, . )  
a Florida limited liability company, )  
  )  
Defendant. )

**DECLARATION OF PHIL COOPER RE: NOTICE PROCEDURES**

I, PHIL COOPER, declare:

1. I am Senior Consultant at Kurtzman Carson Consultants LLC ("KCC"), located at 75 Rowland Way, Suite 250, Novato, California. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. The purpose of this declaration is to provide the Parties and the Court with a summary and the results of the work performed by KCC related to the Notice Procedures for the *AL and PO Corporation v. Quality Medical Products, LLC* settlement following the Preliminary Approval.

3. KCC was retained to, among other tasks, fax the Notice (the "Class Notice") and Claim Form (the "Claim Form"). Copies of the Notice, and Claim Form are attached hereto as Exhibits A and B respectively.

4. On May 29, 2015, KCC received from the Defendant two spreadsheets containing a total of 33,884 fax numbers, which spreadsheets collectively will be referred to as the "Fax List."

5. After performing data analysis on the Fax List, KCC identified and removed 12,430 duplicate numbers, resulting in 21,454 unique numbers remaining on the Fax List.

6. On or before July 9, 2015, I caused the Notice and Claim Form to be sent by facsimile to 21,454 fax numbers identified on the Fax List, making at least two attempts in the event that a transmission attempt failed. After all attempts, 13,500 transmissions were successful and 7,954 were unsuccessful.

7. As of the date of this declaration, KCC has received 1 Request for Exclusion. A list of the individual requesting exclusion and a copy of the exclusion request is attached hereto as Exhibit C.

8. As of the date of this declaration, KCC has received no Objections to the Settlement.

9. As of the date of this declaration, 302 Claim Forms have been filed by Class Members.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this 22<sup>nd</sup> day of October 2015 at Novato, California.



Phil Cooper

## **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

**AL and PO CORPORATION v. QUALITY MEDICAL PRODUCTS, LLC, No. 14 CV 1243**  
**Judge Thomas M. Durkin**

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

TO: All persons and entities: (a) who in 2013 were subscribers to a telephone number to which was sent one or more facsimiles ("Subcontractor Faxes") inviting recipients to contact QMP about its subcontractor network, which is used to service Medicare members receiving CPAP and BiPAP equipment, or who in 2013 were the owners of a facsimile machine to which a Subcontractor Fax was sent; (b) who in 2013 were subscribers to a telephone number listed on one or both of the two spreadsheets QMP created for purposes of sending the Subcontractor Faxes; (c) who were recipients of a Subcontractor Fax; or (d) who in 2013 had a registration with the National Provider Identifier ("NPI") Registry that included a telephone number described in (a) or (b) above.

\*Copies of the two Subcontractor Faxes can be reviewed at Class Counsel's website, [www.qmpfaxsettlement.siprut.com](http://www.qmpfaxsettlement.siprut.com).\*

\*To find out if your number appears on either of QMP's spreadsheets, contact Class Counsel.\*

**PLEASE READ THIS NOTICE CAREFULLY. *THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.***

***IF YOU WISH TO RECEIVE A PORTION OF THE CLASS SETTLEMENT FUND DESCRIBED BELOW,  
YOU MUST COMPLETE AND RETURN THE NOTICE/CLAIM FORM BY SEPTEMBER 7, 2015.***

- I. WHY YOU RECEIVED THIS NOTICE.** This Notice is to inform you of the proposed settlement of a class action lawsuit having to do with alleged fax advertising. Your fax number has been identified as one that may have received a Subcontractor Fax from QMP. **To review the full proposed settlement agreement and other pleadings, please call Class Counsel at (312) 236-0000 or visit [www.qmpfaxsettlement.siprut.com](http://www.qmpfaxsettlement.siprut.com).**
- II. WHAT IS THIS LAWSUIT ABOUT?** The Plaintiff filed this Lawsuit on behalf of itself and the Settlement Class alleging, among other things, that QMP violated the Telephone Consumer Protection Act ("TCPA") by sending it and the Settlement Class unsolicited fax ads. The TCPA provides for a statutory penalty of \$500 for each violation and a \$1500 penalty for willful violations. QMP denies violating the Act. If litigation continued, QMP would defend the case by showing that the Subcontractor Faxes are not advertisements or subject to the TCPA. The parties have entered into this Proposed Settlement to avoid the risk, inconvenience, and expense of further litigation.
- III. WHO REPRESENTS YOU?** The Court has appointed Siprut PC to represent the Settlement Class as Class Counsel. Class Counsel may be contacted at Siprut PC, 17 N. State Street, Suite 1600, Chicago, IL 60602, (312) 236-0000, (312) 241-1260 (FAX), [www.siprut.com](http://www.siprut.com).
- IV. WHAT IS THE PROPOSED SETTLEMENT?** Subject to Court approval, under the Proposed Settlement, QMP will pay \$650,000.00 to settle the claims of the Plaintiff and the Class members. **To receive money under this settlement, you must submit the Claim Form at the end of this Notice.** The \$650,000.00 will be used to: (a) pay the costs of notice and administration of the settlement; (b) pay an award of attorney fees and costs to Class Counsel; (c) pay an individual award to the Plaintiff; and (d) establish a Class Fund for the Class Members, which will be equal to the \$650,000 minus the foregoing amounts. Notice and administration costs will not exceed \$45,000.00. The Plaintiff's award will not exceed \$5,000. Attorney's fees and costs awarded by the Court will not exceed one third of the Settlement Amount minus administration costs and Plaintiff's

award. The parties estimate that Class Counsel will be awarded \$200,000. The parties estimate that the Class Fund will total roughly \$400,000. The Class Fund will be distributed *pro rata* among class members who submit a valid Claim Form. The parties believe there are about 21,450 class members. If 10% of the class members submit valid Claim Forms, each class member submitting a valid Claim Form will get roughly \$186.48.

Under the settlement, those Settlement Class members who remain in the Settlement Class will release QMP from liability for sending them faxes, regardless of whether they file a Claim Form for a share of the Class Fund. The Court has given preliminary approval to the settlement and directed that this Notice be sent to you. The Court has appointed the law firm of Siprut PC as Class Counsel to represent the Settlement Class.

**V. YOUR LEGAL RIGHTS AND OPTIONS:**

- 1) Remain a member of the Settlement Class and file a claim to receive a portion of the Class Fund.** To do so you must mail or fax the Claim Form at the end of this Notice to the Claims Administrator at the address or fax number indicated on the Claim Form. The Claim Form must be faxed or postmarked by **September 7, 2015**. You will receive a *pro rata* share of the Settlement Fund.
- 2) Exclude yourself from the Settlement.** You may opt out or exclude yourself from the settlement by faxing or mailing a Notice of Exclusion to the Claims Administrator at: QMP Fax Settlement Administrator, P.O. Box 40007, College Station, TX 77842-4007, Fax Number: 1-877-311-4775, containing the case name and number at the top of this Notice and stating you wish to be excluded from the Settlement Class. The Notice of Exclusion must be faxed or postmarked on or before **September 7, 2015**.
- 3) Object to or Comment on the Settlement.** You may object to or comment on this settlement in writing. Your objection must contain the case name and number at the top of this Notice and be faxed or mailed to Class Counsel: Joseph J. Siprut, Siprut PC, 17 North State Street, Suite 1600, Chicago, IL 60602, (312) 241-1260 and Peter E. Pederson, Hinshaw & Culbertson LLP, 222 N. LaSalle St. Ste. 300, Chicago IL 60601 fax (312) 704-3001. You must also send a copy of the objection to the Office of the Clerk, U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604. You may also be heard at the Final Approval Hearing (see below) regarding any objection or comment you have. Filing an objection does not exclude you from the Settlement Class. Your objection must be postmarked or faxed by **September 7, 2015**. **If you file an objection, you may, subject to Court approval, have to produce documents or provide sworn testimony at a deposition.**
- 4) Do Nothing.** You are not obligated to take any action in response to this Notice. If you do nothing you will remain a member of the Settlement Class but you will **not** receive a share of the Class Fund and you will release Defendant QMP from liability for sending faxes to you regarding its goods and services.

You are represented by Class Counsel in this case. You are free to retain your own attorney to represent you at your own cost. **QUESTIONS ABOUT THIS NOTICE OR THIS CASE MAY BE DIRECTED TO CLASS COUNSEL AT (312) 236-0000.**

**FINAL APPROVAL HEARING:** The Court will hold a Final Approval Hearing ("Fairness Hearing") on November 4, 2015 at 9:00 a.m. before Judge Durkin, Room 1441 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 at which time the Court will decide whether to grant final approval to the proposed settlement. You are not required to attend this hearing unless you wish to speak orally as to an objection or comment you have.

**PLEASE DO NOT CONTACT THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION**

**BY ORDER OF UNITED STATES DISTRICT COURT JUDGE THOMAS M. DURKIN  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

## **EXHIBIT B**

## **CLAIM FORM**

**AL and PO CORPORATION v. QUALITY MEDICAL PRODUCTS, LLC, No. 14 CV 1243**

**SUBMIT BY SEPTEMBER 7, 2015 VIA FACSIMILE OR MAIL TO:**

QMP Fax Claims Administrator  
P.O. Box 40007  
College Station, TX 77842-4007  
Fax Number: 1-877-311-4775

I certify that I am a member of the Settlement Class defined above. I am the recipient of a Subcontractor Fax, the owner of a fax machine to which the Subcontractor Fax was sent, or the subscriber to a fax number to which the fax was sent.

**Fax number involved**

**Full Name of Class Member**

**Street/P.O. Box**

## City

## State

Zip Code

(Current Mailing Address of Subscriber of Fax Line)

**Signature**

## **Taxpayer Identification Number Certification - Substitute IRS Form W-9**

Enter your Social Security Number: \_\_\_\_\_

Print name as shown on your income tax return:

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

**Under penalties of perjury, I certify that:**

1. The taxpayer identification number shown on this form is my correct taxpayer identification number, **and**
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Note: If you have been notified by the IRS that you are subject to backup withholding, you must cross out item 2 above.

**The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.**

**You are not required to complete this section in order to file a claim. If you do not complete this W-9 section, you may be subject to backup withholding of your settlement award.**

## **EXHIBIT C**

**KCC Class Action Services  
AL & PO Corporation v. Quality Medical Products  
Exclusion Report  
10/22/15**



**Count:** 1

Acct ID	Last Name	First Name	Company	FaxNumber
9835	KURZAWA	SCOTT	ALPHA-OMEGA PHARMACY	3526007955

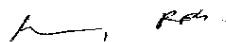
Alpha-Omega Pharmacy  
4142 Commercial Way  
Spring Hill, FL 34606  
(352)600-7950

July 15, 2015

Dear Sir or Madame,

Alpha-Omega Pharmacy would like to opt out or exclude ourselves from the settlement involving Quality Medical Products, LLC. Our affected fax number is (352)600-7955.

Sincerely,

 RPS

Scott Kurzawa, R.Ph.  
Owner